

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
EASTERN DIVISION

IN RE:
GENE COGGINS,

2007 JUL 17 A 956

PLAINTIFF,

3:07cv597-WHA

vs:

CIVIL ACTION NO. 3:07CV-04-94

DARYL KIZZIAH and WIFE
LYNN KIZZIAH
DEFENDANTS.

ANSWER TO COMPLAINT AND MOTION TO DISMISS

COME NOW, DARYL KIZZIAH and wife, LYNN KIZZIAH the Defendants in this action and file this their motion to dismiss the Plaintiffs Complaint and in furtherance thereof would state as follows:

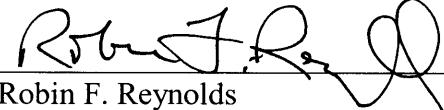
1. Defendants deny each and every allegation contained in Plaintiffs Complaint and demand strict proof thereof.
2. The complaint fails to state a claim upon which relief can be granted.
3. The Court lacks subject matter jurisdiction of this cause of action. Each Plaintiff and Defendant is a resident citizen of the state of Alabama; therefore, there is no issue of diversity pursuant to 28 U.S.C. 1332 (a) (1).
4. The Defendant, Daryl Kizziah is a resident of Alabama, whose address is more particularly described as 86 Milam Road, Jackson's Gap, Alabama 36861.
5. The Defendant Lynn Kizziah is a resident of Alabama, whose address is more particularly described as 86 Milam Road, Jackson's Gap, Alabama 36861.
6. That this matter has been previously dismissed by this Honorable Court on June 14, 2004. (See attached Exhibit "A").

WHEREFORE, Defendants Daryl Kizziah and Lynn Kizziah pray the Court will dismiss the Plaintiff's Complaint and enter such other, further or different relief as may be just and

proper.

DONE this the 12 day of ^{July} June, 2007.

Respectfully submitted,


Robin F. Reynolds (REY023)
Attorney for Defendants

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CERTIFICATE OF SERVICE

I hereby certify that I have served a copy of the foregoing Motion To Dismiss on each of the following by sending each a copy of same by first class U.S. Mail, postage prepaid and properly addressed this the 12 day of ^{July} June, 2007:

Gene Coggins
1436 County Road #299
Lanett, Alabama 36863


Of Counsel